

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Engrossed Senate Bill 40 be amended to read as follows:

- 1 Page 6, between lines 10 and 11, begin a new paragraph and insert:
2 "SECTION 8. IC 31-17-5-1 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. (a) **Except as**
4 **otherwise provided in this chapter**, a child's grandparent may seek
5 visitation rights if:
6 (1) the child's parent **who was the child of the grandparent** is
7 deceased;
8 (2) the marriage of the child's parents has been dissolved in
9 Indiana **and the custodial parent is not the child of the**
10 **grandparent**; or
11 (3) subject to subsection (b), the child was born out of wedlock.
12 (b) A court may not grant visitation rights to a paternal grandparent
13 of a child who is born out of wedlock under subsection (a)(3) if the
14 child's father has not established paternity in relation to the child.
15 SECTION 9. IC 31-17-5-2.5 IS ADDED TO THE INDIANA
16 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
17 [EFFECTIVE JULY 1, 2006]: **Sec. 2.5. A court shall dismiss a**
18 **petition for visitation under this chapter if any of the following**
19 **apply:**
20 (1) **Both parents of the child oppose visitation or the frequency**
21 **of visitation with a grandparent.**
22 (2) **One (1) of the child's parents is deceased and the surviving**
23 **parent:**
24 (A) **has custody of the child;**
25 (B) **opposes visitation; and**

(C) presents a written statement:

(i) signed by the deceased parent; and

(ii) acknowledged before a person authorized to take acknowledgments;

that the surviving parent has the authority to make decisions regarding visitation by a grandparent.

(3) The grandparent seeking visitation under this chapter is the parent of a noncustodial parent (as defined in IC 31-9-2-83) who has parenting time under a parenting time order that is equal to or greater than the parenting time recommended under the parenting time guidelines adopted by the Indiana supreme court, unless the petition seeking visitation:

(A) is verified; and

(B) contains detailed information explaining why visitation by the grandparent with the child during the noncustodial parent's parenting time is:

(i) not feasible; or

(ii) insufficient to prevent harm to the child.

SECTION 10. IC 31-17-5-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3. (a) A proceeding for grandparent's visitation must be commenced by the filing of a petition entitled, "In Re the visitation of _____". The petition must:

(1) be filed by a grandparent entitled to receive visitation rights under this chapter;

(2) be verified; and

(3) set forth the following:

(A) The names and relationship of:

(i) the petitioning grandparent or grandparents;

(ii) each child with whom visitation is sought; and

(iii) the custodial parent or guardian of each child.

(B) The present address of each person named in clause (A).

(C) The date of birth of each child with whom visitation is sought.

(D) The status under section 1 of this chapter upon which the grandparent seeks visitation.

(E) The relief sought.

(F) Factual allegations that, if supported by sufficient evidence, would justify an order granting visitation under this chapter.

(b) The court may not grant an order for visitation under this chapter before the court holds an evidentiary hearing.

SECTION 11. IC 31-17-5-3.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 3.5. (a) There is a rebuttable presumption that a decision by a fit custodial parent concerning grandparent visitation is in the best interests of the child. A court

1 shall give deference and special weight to a determination by a fit
2 custodial parent that a denial of or limitation on grandparent
3 visitation is in the child's best interest.

4 (b) A court may grant visitation to a grandparent under this
5 chapter if the grandparent shows by clear and convincing evidence
6 that visitation is in the best interests of the child.

7 (c) A court may not do the following:

8 (1) Use a custodial parent's decision concerning grandparent
9 visitation as a basis for finding a custodial parent unfit.

10 (2) Make an award for visitation under this chapter that is
11 based solely on an opinion by an expert.

12 (d) Upon hearing evidence in support of and opposition to a
13 petition filed under this chapter, the court shall enter an order that
14 includes specific findings of fact and conclusions of law for all
15 aspects of the order, including findings concerning the
16 requirements of this section."

17 Page 6, between lines 20 and 21, begin a new paragraph and insert:

18 "SECTION 13. IC 31-17-5-5.5 IS ADDED TO THE INDIANA
19 CODE AS A NEW SECTION TO READ AS FOLLOWS
20 [EFFECTIVE JULY 1, 2006]: Sec. 5.5. If a parent who opposes
21 visitation under this chapter provides evidence that the petitioning
22 grandparent has:

23 (1) attempted to alienate the child from the parent;

24 (2) disobeyed or ignored the parent's child rearing decisions;

25 (3) subjected the child to a physical risk that the parent does
26 not approve;

27 (4) helped any other person evade visitation restrictions
28 concerning the child; or

29 (5) physically or emotionally abused one (1) of the parents of
30 the child when the parent was a child;

31 the court may not grant visitation unless the petitioning
32 grandparent rebuts the parent's evidence or shows by clear and
33 convincing evidence that the behavior will not reoccur.

34 SECTION 14. IC 31-17-5-8 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 8. (a) This section
36 applies to a child born out of wedlock.

37 (b) Visitation rights provided for in ~~section 1 or 10 of~~ **under** this
38 chapter survive the establishment of paternity of a child by a court
39 proceeding other than an adoption proceeding.

40 SECTION 15. IC 31-17-5-9 IS AMENDED TO READ AS
41 FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 9. **If the requirements**
42 **under sections 3 and 3.5 of this chapter are met**, visitation rights
43 provided for in ~~section 1 or 10 of~~ **under** this chapter survive the
44 adoption of the child by any of the following:

45 (1) A stepparent.

46 (2) A person who is biologically related to the child as:

47 (A) a grandparent;

- 1 (B) a sibling;
- 2 (C) an aunt;
- 3 (D) an uncle;
- 4 (E) a niece; or
- 5 (F) a nephew."

6 Page 6, line 22, delete "IC 31-17-2-23." and insert "IC 31-17-2-23;
7 IC 31-17-5-2; IC 31-17-5-6."

8 Renumber all SECTIONS consecutively.

(Reference is to ESB 40 as printed February 17, 2006.)

Representative Orentlicher